



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attorney Docket No. **020431.0787**

In re Application of:

**ROSA H. BIRJANDI, ET AL.**

Serial No. **10/032,971**

Filed: **25 OCTOBER 2001**

For: **OPTIMIZED DEPLOYMENT OF  
PARTS IN A DISTRIBUTION  
NETWORK**

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Examiner: **ANDREW J. RUDY**

Art Unit: **3627**

Confirmation No. **8827**

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP: AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellant respectfully requests review of the final rejection in the above-identified Application in accordance with the provisions set forth in "New Pre-Appeal Brief Conference Pilot Program" 1296 Off. Gaz. Pat. Office 67 (July 12, 2005). No amendments are being filed with this Request. This Request is being filed concurrently with a Notice of Appeal. The review is requested for the reasons stated in the following Arguments, which begin on page 3 and end on page 4 of this paper, thereby satisfying the requirement that the Arguments be limited to five or less total pages.

**CERTIFICATE OF MAILING  
UNDER 37 C.F.R. § 1.8(a)**

Date of Deposit: 20 January 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail with sufficient postage under 37 C.F.R. §1.8(a) on the date indicated above and is addressed to Mail Stop: AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

By: 

A Notice of Appeal is submitted herewith that includes an authorization for charging the \$500.00 Notice of Appeal fee to **Deposit Account No. 500777**. A Request for One-Month Extension of Time is also submitted herewith that includes an authorization for charging the \$120.00 One-Month Extension of Time fee to **Deposit Account No. 500777**. The undersigned hereby authorizes the Director to charge any fees that may be required, or credit any overpayments, to **Deposit Account No. 500777**.

## **ARGUMENTS**

### **I. DISPOSITION OF CLAIMS**

Claims 1-10 and 21-32 have previously been cancelled without prejudice. Claims 11-20 remain in the application.

Claims 11-20 stand rejected under 35 U.S.C. § 102(b) over Brinkley et al., U.S. Patent No. 5,897,645 ("Brinkley").

### **II. BRINKLEY FAILS TO ANTICIPATE CLAIMS 11-20**

Claims 11-20 also stand rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,897,645 to Brinkley et al ("Brinkley").

This rejection is respectfully traversed.

A claim is anticipated by a prior art reference only if the reference discloses or inherently describes every detail of the claim. According to the MPEP, "[a] claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."<sup>1</sup> Also according to the MPEP, "[T]he identical invention must be shown in as *complete detail* as is contained in the ... claim."<sup>2</sup>

Applicants maintain that Brinkley does not disclose or suggest many aspects of the presently claimed invention. For example, Brinkley fails to disclose:

- defining a plurality of locations comprising a plurality of supply locations and a plurality of demand locations, a supply location being operable to supply a plurality of parts to a demand location;

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<sup>1</sup> MPEP 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), emphasis added.

<sup>2</sup> MPEP 2131, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), emphasis added.

- determining a completely filled demand from the lead-time demands and the stock levels;
- determine a partially filled demand from the lead-time demands and the stock levels; and
- generating a coverage function for the parts at the locations from the completely filled demand and the partially filled demand.

It is noted that none of the Office Actions to date provide any explanation as to how Brinkley is considered to disclose the limitation of claim 11 regarding the generation of a coverage function from a completely filled demand and a partially filled demand. Clarification is therefore respectfully requested.

Since Brinkley fails to disclose all of the limitations of claim 11, Brinkley cannot anticipate claim 11, or claims 12-20 which depend from claim 11.

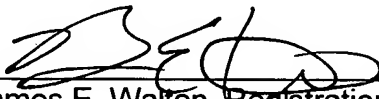
In light of the above, it is respectfully submitted that claims 11-20 are in condition for allowance, and notice to that effect is respectfully requested.

**CONCLUSION:**

In view of the foregoing remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

20 JAN 2006  
Date

  
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